

## UNITED STATES DISTRICT COURT

## DISTRICT OF NEVADA

4 Guillermo Renteria-Novoa,

Case No.: 2:23-cv-01106-JAD-BNW

5 Petitioner,

6 v.

**Order Denying Motion to Dismiss and  
Directing Answer to Petition by June 20,  
2025**

7 Brian Williams, et al.,

8 Respondents.

9 [ECF Nos. 31, 33]

10 Guillermo Renteria-Novoa brings this habeas corpus proceeding under 28 U.S.C. § 2254  
11 to challenge his 2012 conviction for numerous sex offenses. Respondents move to dismiss  
12 several claims from Renteria-Novoa's first-amended habeas petition<sup>1</sup> as not cognizable,  
13 unexhausted, or procedurally defaulted.<sup>2</sup> Because Grounds 1–5 and 12 are exhausted and  
14 cognizable, I deny the respondents' motion to dismiss those claims. And although the parties  
15 agree that subparts C, D, and E of Ground 11 are procedurally defaulted, I defer until merits  
16 review a decision on whether Renteria-Novoa can establish cause and prejudice to overcome that  
17 default. So I direct the respondents to file an answer to the first-amended petition by **June 20,**  
18 **2025.**

19 **Background**

20 In 2012, a jury sitting in the state district court for Clark County, Nevada, found Renteria-  
21 Novoa guilty of 15 counts of sexual assault of a minor under 14 years of age, 8 counts of sexual  
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23 <sup>1</sup> ECF No. 15.

<sup>2</sup> ECF No. 33.

1 assault of a minor under 16 years of age, 4 counts of sexual assault, 6 counts of lewdness with a  
2 minor under 16 years of age, and 3 counts of open or gross lewdness.<sup>3</sup> Evidence presented at  
3 trial established that, over a period of many years, Renteria-Novoa had sexual relations with R.P.,  
4 the teenage daughter of his ex-girlfriend.<sup>4</sup> The court sentenced Renteria-Novoa to multiple life  
5 sentences with the possibility of parole after 85 years.<sup>5</sup> A judgment of conviction was entered in  
6 September 2012.<sup>6</sup> Renteria-Novoa appealed, and in September 2014 the Supreme Court of  
7 Nevada affirmed.<sup>7</sup>

8 In February 2015, Renteria-Novoa filed a pro se state habeas petition and motion for  
9 appointment of counsel in the state district court.<sup>8</sup> The court denied both.<sup>9</sup> On appeal, the  
10 Supreme Court of Nevada remanded the case because the lower court erred when it denied  
11 Renteria-Novoa counsel.<sup>10</sup> With the assistance of appointed counsel, Renteria-Novoa filed  
12 supplemental briefing in support of his petition.<sup>11</sup> The district court held an evidentiary hearing  
13 in December 2019<sup>12</sup> and entered an order denying the supplemented petition in May 2022.<sup>13</sup>

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<sup>3</sup> ECF No. 27-5.

17<sup>4</sup> ECF No. 27-39 at 3.

18<sup>5</sup> ECF No. 27-10.

19<sup>6</sup> *Id.*

20<sup>7</sup> ECF Nos. 27-11, 27-39.

21<sup>8</sup> ECF Nos. 27-40, 27-41.

22<sup>9</sup> ECF Nos. 27-44, 28-1.

23<sup>10</sup> ECF No. 28-12.

<sup>11</sup> ECF No. 28-18.

<sup>12</sup> ECF No. 28-22.

<sup>13</sup> ECF No. 28-25.

1 Renteria-Novoa appealed.<sup>14</sup> In April 2023, the Nevada Court of Appeals entered an order  
 2 affirming the lower court's decision.<sup>15</sup>

3 In July 2023, Renteria-Novoa submitted the federal petition that initiated this case.<sup>16</sup> I  
 4 appointed the Federal Public Defender for Nevada to represent him and, in March 2024, he filed  
 5 a counseled first-amended petition.<sup>17</sup> Respondents now move to dismiss that petition,  
 6 contending that Grounds 2, 4, 5, and 12 are not cognizable, subparts C, D, and E of Ground 11  
 7 are procedurally defaulted, and Grounds 1, 3, 4, and 12 are unexhausted.

8 **Discussion**

9 **A. Relevant legal standards**

10 **1. *Claims are cognizable on federal habeas review only if a federal constitutional***  
 11 ***or statutory right is implicated by the facts.***

12 A state prisoner is entitled to federal habeas relief only if he is being held in custody in  
 13 violation of the Constitution, laws, or treaties of the United States.<sup>18</sup> Unless an issue of federal  
 14 constitutional or statutory law is implicated by the facts presented, the claim is not cognizable  
 15 under federal habeas corpus.<sup>19</sup> A petitioner may not "transform a state-law issue into a federal  
 16 one merely by asserting a violation of due process."<sup>20</sup> Alleged errors in the interpretation or  
 17 application of state law do not warrant habeas relief.<sup>21</sup>

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 19<sup>14</sup> ECF No. 28-26.

20<sup>15</sup> ECF No. 28-42.

21<sup>16</sup> ECF No. 1.

22<sup>17</sup> ECF Nos. 8, 15.

23<sup>18</sup> 28 U.S.C. § 2254(a).

<sup>19</sup> *Estelle v. McGuire*, 502 U.S. 62, 68 (1991).

<sup>20</sup> *Langford v. Day*, 110 F.3d 1380, 1389 (9th Cir. 1996).

<sup>21</sup> *Hubbart v. Knapp*, 379 F.3d 773, 779–80 (9th Cir. 2004).

1           2. ***Petitioners must first exhaust their claims in state court before seeking federal***  
 2 ***habeas review.***

3           Because a federal habeas petitioner incarcerated by a state must give the state courts a  
 4 fair opportunity to act on each of his claims before he presents them in a federal habeas petition,  
 5 federal courts will not consider a petition for habeas relief until the petitioner has properly  
 6 exhausted his available state remedies for all claims raised.<sup>22</sup> A claim remains unexhausted until  
 7 the petitioner has given the highest available state court the opportunity to consider the claim  
 8 through direct appeal or state collateral-review proceedings.<sup>23</sup> To properly exhaust state  
 9 remedies on each claim, a habeas petitioner must “present the state courts with the same claim he  
 10 urges upon the federal court.”<sup>24</sup> The federal constitutional implications of a claim, not just issues  
 11 of state law, must have been raised in the state court to achieve exhaustion.<sup>25</sup>

12 **B. Ground 1 is exhausted.**

13           In Ground 1, Renteria-Novoa alleges that “[t]he trial court violated [his] right to a fair  
 14 trial and the equal protection clauses of the Sixth and Fourteenth Amendments by  
 15 denying challenges to discriminatory practices prohibited by *Batson v. Kentucky*.<sup>26</sup>  
 16 Respondents argue that the claim is unexhausted because the *Batson* claim Renteria-Novoa  
 17 presented the Nevada courts alleged prosecutorial error, but the claim he presents to this court

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 19 <sup>22</sup> See *Boyd v. Thompson*, 147 F.3d 1124, 1128 (9th Cir. 1998).

20 <sup>23</sup> *O'Sullivan v. Boerckel*, 526 U.S. 838, 844–45 (1999); *Peterson v. Lampert*, 319 F.3d 1153,  
 21 1158 (9th Cir. 2003) (en banc).

<sup>24</sup> *Picard v. Connor*, 404 U.S. 270, 276 (1971).

<sup>25</sup> *Woods v. Sinclair*, 764 F.3d 1109, 1129 (9th Cir. 2014); *Castillo v. McFadden*, 399 F.3d 993,  
 22 999 (9th Cir. 2005) (stating that fair presentation requires both the operative facts and federal  
 23 legal theory upon which a claim is based).

<sup>26</sup> ECF No. 15 at 7.

1 alleges trial-court error. This is a distinction without a difference here. Relying on essentially  
 2 the same facts, Renteria-Novoa's argument in both state court and this court is that jury selection  
 3 was tainted by racial and gender discrimination in violation of *Batson*.<sup>27</sup> So I conclude that  
 4 Ground 1 is exhausted.

5 **C. Ground 2 is a cognizable federal habeas claim.**

6 In Ground 2, Renteria-Novoa alleges that “[t]he State failed to allege with adequate  
 7 specificity the acts constituting the charged crimes in the Information, violating [his] right to due  
 8 process and a fair trial under the Fourth, Sixth, and Fourteenth Amendments.”<sup>28</sup> Respondents  
 9 argue that the claim is not cognizable because Renteria-Novoa's challenge to the contents of a  
 10 charging document is “a matter of state law that fails to provide a substantive liberty interest,”  
 11 citing to Nevada's statute describing what a criminal information must contain under state law.<sup>29</sup>

12 Respondents misconstrue Renteria-Novoa's challenge and ignore the Sixth Amendment's  
 13 guarantee that a defendant must be “informed of the nature and cause” of criminal charges to be  
 14 presented at trial.<sup>30</sup> Federal case law provides that a criminal defendant must have “reasonable  
 15 notice of a charge against him, and an opportunity to be heard in his defense.”<sup>31</sup> Ground 2

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 27 Compare the claim alleged in Renteria-Novoa's argument on direct appeal (ECF No. 27-29 at  
 17 24-31) with Ground 1 (ECF No. 15 at 7-12).

28 ECF No. 15 at 12.

29 ECF No. 33 at 6 (citing Nev. Rev. Stat. § 173.075).

30 U.S. Const., Amend. VI. The respondents' only citation, to *Bonin v. Calderon*, 59 F.3d 815, 841–842 (9th Cir. 1995), doesn't support their position. *Bonin* concerned a challenge to a state law that gave “the defendant in a capital case the right to have two defense attorneys argue [o]n his behalf.” *Id.* at 841. The Ninth Circuit held that the state law didn't create a constitutionally protectable liberty interest and was thus not cognizable in federal habeas. *Id.* at 842. That holding has no impact on Renteria-Novoa's claim that the information in his case violated the Sixth and Fourteenth Amendments.

31 *In re Oliver*, 333 U.S. 257, 273 (1948); see also *Cole v. Arkansas*, 333 U.S. 196, 201 (1948) (“No principle of procedural due process is more clearly established than that notice of the specific charge, and a chance to be heard in a trial of the issues raised by that charge, . . . are

1 alleges that the information containing the charges against Renteria-Novoa did not satisfy those  
 2 constitutional standards.<sup>32</sup> Indeed, the claim doesn't even mention the state law that the  
 3 respondents contend that it arises under—Renteria-Novoa cites only federal constitutional law to  
 4 support his arguments.<sup>33</sup> So I conclude that Ground 2 states a cognizable claim for habeas relief.

5 **D. Ground 3 is exhausted.**

6 In Ground 3, Renteria-Novoa alleges that “[t]he trial court violated [his] rights under the  
 7 Fifth, Sixth and Fourteenth Amendments by refusing [sic] him to present crucial evidence of  
 8 R.P.’s pregnancy in his defense.”<sup>34</sup> Respondents argue that Ground 3 is unexhausted in part  
 9 because it includes “portions” that Renteria-Novoa failed to present on direct appeal.<sup>35</sup>  
 10 Respondents do not identify, and I am unable to discern, the “portions” that they are referring to.  
 11 But, based on my review of the relevant state-court argument,<sup>36</sup> I conclude that Ground 3 is  
 12 exhausted.

13 **E. Ground 4 is cognizable and exhausted.**

14 In Ground 4, Renteria-Novoa alleges that ‘[t]he trial court’s admissions of R.P.’s prior,  
 15 out-of-court statements violated [his] right to confront witnesses under the Sixth and

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 19 among the constitutional rights of every accused in a criminal proceeding in all courts, state or  
 20 federal.”); *Gautt v. Lewis*, 489 F.3d 993, 1005–08 (9th Cir. 2007) (granting habeas relief because  
 21 the defendant’s charging document did not provide adequate notice of the charges brought, as  
 22 required by the Sixth and Fourteenth Amendments).

23<sup>32</sup> See ECF No. 15 at 12–15.

<sup>33</sup> *Id.*

<sup>34</sup> *Id.* at 15.

<sup>35</sup> ECF No. 33 at 10.

<sup>36</sup> See ECF No. 27-29 at 34–38.

1 Fourteenth Amendments.”<sup>37</sup> Respondents argue that the claim is both not cognizable and  
 2 unexhausted because Renteria-Novoa didn’t specifically identify his claim on direct appeal as  
 3 one concerning his federal constitutional right to confront witnesses.<sup>38</sup>

4        Respondents’ argument goes only to whether Ground 4 is exhausted, not whether it states  
 5 a cognizable federal habeas claim. Ground 4 clearly alleges a violation of Renteria-Novoa’s  
 6 constitutional rights, so it is a cognizable claim.<sup>39</sup> It is also exhausted because, on direct appeal,  
 7 Renteria-Novoa argued that the trial court’s admission of prior out-of-court statements violated  
 8 his Sixth and Fourteenth Amendment rights:

9        The trial court’s admission of [R.P.’s] prior out-of-court statements,  
 10 and the leading and sometimes narrative fashion in which the  
 11 prosecutor elicited them, violated Guillermo’s constitutional and  
 12 statutory rights. USCA VI, XIV; Nev. Const. Art. 1, Sect. 8; NRS  
 13 51.035; NRS 50.115. “In all criminal prosecutions, the accused  
 14 shall enjoy the right … to be confronted with the witnesses against  
 15 him …” U.S.C.A. VI; XIV.<sup>40</sup>

16        Because Renteria-Novoa raised the federal constitutional implications of Ground 4 before the  
 17 state court, his claim is exhausted.

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18<sup>37</sup> ECF No. 15 at 20.

19<sup>38</sup> ECF No. 33 at 6, 10.

20<sup>39</sup> Respondents similarly move to dismiss Ground 5—that “repeated references to R.P. as the  
 21 victim” violated Renteria-Novoa’s due-process rights—on the basis that it is not cognizable  
 22 because Renteria-Novoa “only referenced state case law when he presented Ground 5 on direct  
 23 appeal.” ECF No. 33 at 6. Respondents do not argue that Ground 5 fails to implicate any  
 constitutional rights; it only argues that Renteria-Novoa didn’t alert the state court to the federal  
 nature of his claim. That’s more properly analyzed as an exhaustion issue. Regardless, on direct  
 appeal Renteria-Novoa argued that the repeated references to R.P. as a victim violated his federal  
 due-process rights. ECF No. 27-39 at 43. So that claim is also cognizable and exhausted.

<sup>40</sup> ECF No. 27-29 at 40 (cleaned up).

1           **F. Subparts C, D, and E of Ground 11 are technically exhausted but procedurally**  
 2           **defaulted.**

3           Respondents argue that subparts C, D, and E of Ground 11 are procedurally defaulted.

4           These grounds each allege that Renteria-Novoa's trial counsel committed an error or omission  
 5           that placed counsel's performance below the constitutional standard for effective assistance of  
 6           counsel. Respondents contend that these ineffective assistance of counsel (IAC) claims were  
 7           never presented to the Nevada courts and, because the state court would now dismiss them on  
 8           state procedural grounds, the claims are technically exhausted but procedurally defaulted. This  
 9           application of the procedural-default doctrine has been recognized by the United States Supreme  
 10          Court, most recently in *Shinn v. Ramirez*.<sup>41</sup>

11           Renteria-Novoa does not dispute that the claims are procedurally defaulted. He counters,  
 12          however, that the defaults can be excused under *Martinez v. Ryan*.<sup>42</sup> Under *Martinez*, a habeas  
 13          petitioner can demonstrate cause to overcome the procedural default of a claim of ineffective  
 14          assistance of trial counsel by demonstrating that either (a) he had no counsel during the state  
 15          postconviction proceedings or (b) his counsel was ineffective under the standards of *Strickland v.*  
 16          *Washington*.<sup>43</sup> "Because *Martinez* requires a showing that post-conviction counsel was  
 17          ineffective under the standards of *Strickland*, a petitioner who was represented by post-  
 18          conviction counsel in his initial-review collateral proceeding must show not only that his  
 19          procedurally defaulted trial-level IAC claim is substantial but also that there is 'a reasonable

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<sup>41</sup> *Shinn v. Ramirez*, 596 U.S. 366, 378 (2022).

23          <sup>42</sup> *Martinez v. Ryan*, 566 U.S. 1 (2012).

24          <sup>43</sup> *Id.* at 14 (citing *Strickland v. Washington*, 466 U.S. 668 (1984)).

1 probability that the trial-level IAC claim would have succeeded had it been raised' by post-  
 2 conviction counsel."<sup>44</sup>

3 Renteria-Novoa notes that, "if the Court has any doubts about whether post-conviction  
 4 counsel provided ineffective assistance," he "would respectfully request an opportunity to seek  
 5 leave to present additional evidence on this subject at an evidentiary hearing."<sup>45</sup> The problem  
 6 with this request is that the availability of evidentiary hearings in habeas cases is limited by  
 7 28 U.S.C. § 2254(e)(2). That statute provides that, if a prisoner "has failed to develop the factual  
 8 basis of a claim in State court proceedings," a federal court may hold "an evidentiary hearing on  
 9 the claim" in only two circumstances, neither of which apply in this case.<sup>46</sup>

10 In *Shinn*, the Supreme Court held that the equitable rule announced in *Martinez* does not  
 11 permit a federal court to ignore the limits imposed by 28 U.S.C. § 2254(e)(2) "because a  
 12 prisoner's state postconviction counsel negligently failed to develop the state-court record."<sup>47</sup>  
 13 The High Court explained that, "if [§ 2254(e)(2)] applies and the prisoner cannot satisfy its  
 14 'stringent requirements,' a federal court may not hold an evidentiary hearing—or otherwise  
 15 consider new evidence—to assess cause and prejudice under *Martinez*."<sup>48</sup> Renteria-Novoa  
 16 makes no argument that the holding in *Shinn* does not apply to this court's consideration of his  
 17 request for an evidentiary hearing. So I am confined to the state-court record in determining  
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19 <sup>44</sup> *Rodney v. Filson*, 916 F.3d 1254, 1260 (9th Cir. 2019) (internal quotation and citation  
 omitted).

20 <sup>45</sup> ECF No. 35 at 9.

21 <sup>46</sup> 28 U.S.C. § 2254(e)(2)(A)(i)–(ii) (permitting an evidentiary hearing only if the at-issue claim  
 22 relies on a retroactively applied "new rule of constitutional law" or a "factual predicate that  
 could not have been previously discovered through the exercise of due diligence"). Renteria-  
 Novoa doesn't argue that either circumstance applies to his IAC claims.

23 <sup>47</sup> *Shinn*, 596 U.S. at 371.

<sup>48</sup> *Id.* at 389.

1 whether he can also show that post-conviction counsel was ineffective under the *Strickland*  
 2 standard.

3 Regardless, the parties agree that this court should conduct its *Martinez* analysis after the  
 4 underlying IAC claims have been briefed on their merits.<sup>49</sup> Because the question of procedural  
 5 default is intertwined with the underlying merits of Renteria-Novoa's IAC claims, I conclude  
 6 that a full merits briefing may assist with my determination, and waiting until that briefing has  
 7 been completed to address this question would best serve judicial efficiency. So I defer until  
 8 merits review a decision on whether Renteria-Novoa has shown cause and prejudice to overcome  
 9 default for subparts C, D, and E of Ground 11.

10 **G. Respondents' motion to dismiss Ground 12 is denied because, in the Ninth Circuit,  
 11 cumulative-error claims are cognizable and courts must consider the cumulative  
 impact of substantive errors.**

12 In Ground 12, Renteria-Novoa alleges that “[c]umulative error prejudiced him in  
 13 violation of his due-process right to a fair trial as guaranteed by the Fifth, Sixth, and Fourteenth  
 14 Amendments.”<sup>50</sup> Citing various cases from other circuits, respondents contend (as they always  
 15 do) that cumulative-error claims are not cognizable on federal habeas review.<sup>51</sup> It acknowledges  
 16 that the Ninth Circuit Court of Appeals has recognized cumulative-error habeas claims but  
 17 contends that the circuit split means that “whether the cumulative effect of errors is cognizable  
 18 under AEPDA is not ‘clearly established.’”<sup>52</sup> The Supreme Court has not resolved that split,  
 19 however, and the Ninth Circuit has consistently interpreted the Supreme Court’s opinion in

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 21 <sup>49</sup> See ECF No. 35 at 9, ECF No. 36 at 8.

22 <sup>50</sup> ECF No. 15 at 63 (cleaned up).

23 <sup>51</sup> See ECF No. 33 at 7 (citing *Williams v. Anderson*, 460 F.3d 789 (6th Cir. 2006); *Fisher v. Angelone*, 163 F.3d 835 (4th Cir. 1998); and *Wainwright v. Lockhart*, 80 F.3d 1226, 1233 (8th Cir. 1996)).

<sup>52</sup> *Id.*

1 *Chambers v. Mississippi* to establish the basis for a cumulative-error claim.<sup>53</sup> I am bound by the  
2 Ninth Circuit's interpretation, so I find that Renteria-Novoa's cumulative-error claim is  
3 cognizable.

4 Respondents also argue that Ground 12 is unexhausted in part because some of the claims  
5 included in Renteria-Novoa’s federal petition were not included when he presented his  
6 cumulative-error claims to Nevada’s appellate courts in his direct appeal and his habeas  
7 proceeding. Regardless of whether Renteria-Novoa fairly presented the same claim he asserts in  
8 Ground 12 to the Nevada courts, I am required by Ninth Circuit precedent to consider the  
9 cumulative impact of any substantial errors in determining whether he is entitled to habeas  
10 relief.<sup>54</sup> I will, however, only consider claims of error that are properly before me in making that  
11 determination. So I decline to hold that Renteria-Novoa’s cumulative-error claim is unexhausted  
12 at this stage in the proceedings.

## Conclusion

14 IT IS THEREFORE ORDERED that respondents' motion to dismiss [ECF No. 33] is  
15 **DENIED.**

16 IT IS FURTHER ORDERED that a decision on whether subparts C, D, and E of Ground  
17 11 are procedurally defaulted is deferred to the merits review.

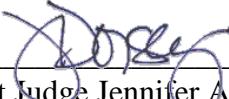
<sup>53</sup> See *Parle v. Runnels*, 505 F.3d 922, 927 (9th Cir. 2007) (“The Supreme Court has clearly established that the combined effect of multiple trial-court errors violates due process where it renders the resulting criminal trial fundamentally unfair.” (quoting *Chambers v. Mississippi*, 410 U.S. 284, 298 (1973) (cleaned up)); *see also, e.g., Michaels v. Davis*, 51 F.4th 904, 935–36 (9th Cir. 2022) (analyzing cumulative-error claim on habeas review); *Noguera v. Davis*, 5 F.4th 1020, 1051–52 (9th Cir. 2021) (same).

<sup>54</sup> See *Killian v. Poole*, 282 F.3d 1204, 1211 (9th Cir. 2002).

1 IT IS FURTHER ORDERED that the respondents' motion for leave to file exhibit under  
2 seal [ECF No. 31] is GRANTED.<sup>55</sup>

3 IT IS FURTHER ORDERED that respondents have until **June 20, 2025, to file an**  
4 **answer to Renteria-Novoa's first-amended habeas petition** [ECF No. 15]. The answer must  
5 contain all substantive and procedural arguments for all surviving grounds of the petition and  
6 comply with Rule 5 of the Rules Governing Proceedings in the United States District Courts  
7 under 28 U.S.C. § 2254. In all other respects, the briefing schedule in the court's January 16,  
8 2024, order [ECF No. 13] remains in effect.

9 Dated: April 21, 2025

10   
11 U.S. District Judge Jennifer A. Dorsey  
12 April 21, 2025

23<sup>55</sup> I find that there are compelling privacy reasons to restrict the public's access to Exhibit 52.  
See *Kamakana v. City and Cnty. of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006).